



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

SCOTT HARGIS, d/b/a SCOTT HARGIS  
PHOTO, an individual,

Plaintiff,

v.

PACIFICA SENIOR LIVING  
MANAGEMENT, LLC, a California limited  
liability corporation; and DOES 1-10,  
inclusive,

Defendants.

Case No. 2:22-cv-06989-MCS-PD

**VERDICT FORM**

## VERDICT FORM

We, the Jury, answer the questions submitted to us as follows:

### PART A

#### DIRECT COPYRIGHT INFRINGEMENT

It has been established that Defendant infringed 43 photographs, 41 of which are owned by Plaintiff. With regard to Plaintiff's ownership of the remaining 2 photographs:

1. Did Plaintiff show by a preponderance of the evidence that "hargis\_180622\_8226" represents the same photograph as "Atria\_Rancho\_Penasquitos8226-2," for which Plaintiff holds a valid registration?

YES X NO \_\_\_\_

2. Did Plaintiff show by a preponderance of the evidence that he holds a registered copyright to the photograph "hargis\_140509\_6527"?

YES \_\_\_\_ NO X

#### NUMBER OF WORKS

3. Do you find that all of the photographs taken at a single property constitute one copyrighted "work," as Defendant contends?

YES \_\_\_\_ NO X

*If you answer "YES" to Question 3, skip PART B and proceed to PART C, starting at page 9.*

*If you answer "NO" to Question 3 please, proceed directly to PART B below and ignore PART C.*

## PART B

### WILLFULNESS/INNOCENCE

4. It has been established that Defendant infringed 5 of Plaintiff's photographs willfully. Did Plaintiff show by a preponderance of the evidence that Defendant infringed any of the other 38 photographs willfully?

YES X NO     

*If you answer "YES" please proceed to Question 5.*

*If you answer "NO" please skip Question 5 and proceed directly to Question 6.*

5. In addition to the 5 photographs infringed willfully, how many of the other 38 photographs do you find that Defendant infringed willfully?

38

6. For any photograph that was not infringed willfully, did Defendant show by a preponderance of the evidence that Defendant infringed any of the other 38 photographs innocently?

YES      NO X

*If you answer "YES" please proceed to Question 7.*

*If you answer "NO" please skip Question 7 and proceed directly to Question 8.*

7. How many of the other 38 photographs, other than those willfully infringed, do you find that Defendant infringed innocently?

*Because an infringement cannot be both willful and innocent, your number should not include any photographs you found were infringed willfully. In other words, your number should not exceed the difference between 38 and your response to Question 5, if applicable*

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**STATUTORY DAMAGES**

*Please fill out the provided Table 1 starting on the next page, consistent with your answers to the following Questions.*

8. For infringement that is willful, what statutory damages do you award for each copyrighted work (\$750 up to \$150,000)?

\$150,000

9. For infringement that is not willful, but also not innocent, what statutory damages do you award for each copyrighted work (\$750 - \$30,000)?

\_\_\_\_\_





10. For infringement that is innocent, what statutory damages do you award for each copyrighted work (\$200 - \$30,000)?

\_\_\_\_\_

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**Table 1*****Instructions:***

1. *For each photograph, indicate whether the infringement was willful by checking "Yes" or "No."*
2. *If you check "No" to willfulness, indicate whether the infringement was innocent by checking "Yes" or "No."*
3. *An infringement cannot be both willful and innocent, so you should only check "Yes" in one of the two columns.*
4. *At the same time, if you find that the infringement was neither willful nor innocent, you should check "No" in both columns.*

|   | File name           | Photo   | Location | Did Plaintiff establish willful infringement for this Photo? (Yes or No) | If the infringement was not willful, did Defendant establish innocent infringement of this Photo? (Yes or No) |
|---|---------------------|---|----------|--|---|
| 1 | hargis_180613_7239  |  | Fresno   | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |
| 2 | hargis_180613_7276  |  | Fresno   | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |
| 3 | hargis_180613_7290: |  | Fresno   | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |
| 4 | hargis_180613_7306  |  | Fresno   | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |

|    | File name          | Photo   | Location | Did Plaintiff establish willful infringement for this Photo? (Yes or No) | If the infringement was not willful, did Defendant establish innocent infringement of this Photo? (Yes or No) |
|----|--------------------|---|----------|--|---|
| 5  | hargis_180613_7336 |    | Fresno   | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |
| 6  | hargis_180613_7353 |    | Fresno   | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |
| 7  | hargis_180613_7369 |    | Fresno   | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |
| 8  | hargis_180613_7207 |   | Fresno   | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |
| 9  | hargis_180621_7829 |  | Menifee  | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |
| 10 | hargis_180621_7835 |  | Menifee  | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |
| 11 | hargis_180621_7874 |  | Menifee  | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |
| 12 | hargis_180621_7914 |  | Menifee  | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |
| 13 | hargis_180621_7948 |  | Menifee  | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>      | Yes <input type="checkbox"/> No <input type="checkbox"/>  |



|    | File name          | Photo   | Location  | Did Plaintiff establish willful infringement for this Photo? (Yes or No) | If the infringement was not willful, did Defendant establish innocent infringement of this Photo? (Yes or No) |
|----|--------------------|---|-----------|--|---|
| 14 | hargis_180621_7972 |    | Meniffee  | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 15 | hargis_180621_8014 |    | Meniffee  | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 16 | hargis_180621_8040 |    | Meniffee  | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 17 | hargis_190510_0209 |    | Bonita    | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 18 | hargis_190510_0233 |   | Bonita    | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 19 | hargis_190510_0247 |  | Bonita    | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 20 | hargis_190510_0256 |  | Bonita    | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 21 | hargis_190510_0284 |  | Bonita    | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 22 | hargis_190510_0311 |  | Bonita    | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 23 | hargis_190510_0369 |  | Bonita    | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 24 | hargis_190624_1600 |  | Encinitas | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |

|    | File name                    | Photo   | Location           | Did Plaintiff establish willful infringement for this Photo? (Yes or No) | If the infringement was not willful, did Defendant establish innocent infringement of this Photo? (Yes or No) |
|----|------------------------------|---|--------------------|--|---|
| 25 | hargis_190624_1621           |    | Encinitas          | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 26 | hargis_190624_1640           |    | Encinitas          | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 27 | hargis_190624_1666           |    | Encinitas          | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 28 | hargis_190624_1673           |    | Encinitas          | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 29 | hargis_190624_1715           |   | Encinitas          | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 30 | hargis_190624_1733           |  | Encinitas          | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 31 | Atria_Rancho_Penasquitos8072 |  | Rancho Penasquitos | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 32 | Atria_Rancho_Penasquitos8090 |  | Rancho Penasquitos | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 33 | Atria_Rancho_Penasquitos8117 |  | Rancho Penasquitos | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |



|    | File name                      | Photo   | Location           | Did Plaintiff establish willful infringement for this Photo? (Yes or No) | If the infringement was not willful, did Defendant establish innocent infringement of this Photo? (Yes or No) |
|----|--------------------------------|---|--------------------|--|---|
| 34 | Atria_Rancho_Penasquitos8152   |    | Rancho Penasquitos | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 35 | Atria_Rancho_Penasquitos8206   |    | Rancho Penasquitos | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 36 | Atria_Rancho_Penasquitos8226-2 |    | Rancho Penasquitos | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 37 | hargis_180821_0424             |   | Sterling           | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 38 | hargis_180821_0439             |  | Sterling           | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 39 | hargis_180821_0470             |  | Sterling           | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 40 | hargis_180821_0543             |  | Sterling           | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 41 | hargis_180821_0579             |  | Sterling           | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 42 | hargis_180821_0600             |  | Sterling           | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |
| 43 | hargis_140509_6527             |  | Burlingame         | Yes <u>X</u> No ____   | Yes ____ No <u>X</u>  |

## PART C

*If you answered "YES" to Question 3, please, answer Questions 11 through 18 below.*

*If you answered "NO" to Question 3 and filled out PART B above, you have completed the verdict form. Do not answer any of the questions below.*

### **WILLFULNESS/INNOCENCE**

To answer questions 11 through 18 below, you may inspect the chart at Table 2 below which groups the photographs by copyrighted Works.

11. It has been established that Defendant infringed 2 of Plaintiff's Works willfully, the Works known as the Sterling Photographs and the Rancho Penasquitos Photographs. Did Plaintiff show by a preponderance of the evidence that Defendant infringed any of the other 5 Works willfully?

YES \_\_\_\_ NO \_\_\_\_

*If you answer "YES" please proceed to Question 12.*

*If you answer "NO" please skip Question 12 and proceed directly to Question 13.*

12. In addition to the 2 Works infringed willfully, what other Works do you find that Defendant infringed willfully?

*For each Work, answer "Yes" or "No"*

| <b><u>Works</u></b>    | <b><u>Infringed Willfully?</u></b> |         |
|------------------------|------------------------------------|---------|
| Fresno Photographs     | Yes ____                           | No ____ |
| Menifee Photographs    | Yes ____                           | No ____ |
| Bonita Photographs     | Yes ____                           | No ____ |
| Encinitas Photographs  | Yes ____                           | No ____ |
| Burlingame Photographs | Yes ____                           | No ____ |

13. For any Work that was not infringed willfully, did Defendant show by a preponderance of the evidence that Defendant infringed any of the Works innocently?

YES \_\_\_\_ NO \_\_\_\_

*If you answer "YES" please proceed to Question 14.*

*If you answer "NO" please skip Questions 14 and 15 and proceed directly to Question 16.*

14. What Works do you find that Defendant infringed innocently?

*For each Work, answer "Yes" or "No." Because and infringement cannot be both willful and innocent, do not answer "Yes" for any Work you found was infringed willfully.*

| <u>Works</u>           | <u>Infringed Innocently?</u> |         |
|------------------------|------------------------------|---------|
| Fresno photographs     | Yes ____                     | No ____ |
| Menifee photographs    | Yes ____                     | No ____ |
| Bonita photographs     | Yes ____                     | No ____ |
| Encinitas photographs  | Yes ____                     | No ____ |
| Burlingame photographs | Yes ____                     | No ____ |

15. How many of the Works, other than those willfully infringed, do you find that Defendant infringed innocently?

\_\_\_\_\_

**STATUTORY DAMAGES**

16. For infringement that is willful, what statutory damages do you award for each copyrighted work (\$750 up to \$150,000)?

\_\_\_\_\_

17. For infringement that is not willful, but also not innocent, what statutory damages do you award for each copyrighted work (\$750 - \$30,000)?

\_\_\_\_\_

18. For infringement that is innocent, what statutory damages do you award for each copyrighted work (\$200 - \$30,000)?










\_\_\_\_\_

*Please check your answers to make sure you followed the instructions on this form, and then have the jury foreperson sign and date the verdict form.*













12/08/23  
Date












REDACTED  
Foreperson












**Table 2**

| <b>Copyrighted Work</b> | <b>File name</b>   | <b>Photo</b>   | <b>Location</b> |
|-------------------------|--------------------|--|-----------------|
| Fresno Photographs      | hargis_180613_7239 |    | Fresno          |
| Fresno Photographs      | hargis_180613_7276 |    | Fresno          |
| Fresno Photographs      | hargis_180613_7290 |    | Fresno          |
| Fresno Photographs      | hargis_180613_7306 |   | Fresno          |
| Fresno Photographs      | hargis_180613_7336 |  | Fresno          |
| Fresno Photographs      | hargis_180613_7353 |  | Fresno          |
| Fresno Photographs      | hargis_180613_7369 |  | Fresno          |
| Fresno Photographs      | hargis_180613_7207 |  | Fresno          |
| Menifee Photographs     | hargis_180621_7829 |  | Menifee         |



| Copyrighted Work    | File name          | Photo   | Location |
|---------------------|--------------------|---|----------|
| Menifee Photographs | hargis_180621_7835 |    | Menifee  |
| Menifee Photographs | hargis_180621_7874 |    | Menifee  |
| Menifee Photographs | hargis_180621_7914 |    | Menifee  |
| Menifee Photographs | hargis_180621_7948 |    | Menifee  |
| Menifee Photographs | hargis_180621_7972 |    | Menifee  |
| Menifee Photographs | hargis_180621_8014 |   | Menifee  |
| Menifee Photographs | hargis_180621_8040 |  | Menifee  |
| Bonita Photographs  | hargis_190510_0209 |  | Bonita   |
| Bonita Photographs  | hargis_190510_0233 |  | Bonita   |
| Bonita Photographs  | hargis_190510_0247 |  | Bonita   |
| Bonita Photographs  | hargis_190510_0256 |  | Bonita   |
| Bonita Photographs  | hargis_190510_0284 |  | Bonita   |

| Copyrighted Work               | File name                    | Photo  | Location           |
|--------------------------------|------------------------------|--|--------------------|
| Bonita Photographs             | hargis_190510_0311           |    | Bonita             |
| Bonita Photographs             | hargis_190510_0369           |    | Bonita             |
| Encinitas Photographs          | hargis_190624_1600           |    | Encinitas          |
| Encinitas Photographs          | hargis_190624_1621           |    | Encinitas          |
| Encinitas Photographs          | hargis_190624_1640           |    | Encinitas          |
| Encinitas Photographs          | hargis_190624_1666           |   | Encinitas          |
| Encinitas Photographs          | hargis_190624_1673           |  | Encinitas          |
| Encinitas Photographs          | hargis_190624_1715           |  | Encinitas          |
| Encinitas Photographs          | hargis_190624_1733           |  | Encinitas          |
| Rancho Penasquitos Photographs | Atria_Rancho_Penasquitos8072 |  | Rancho Penasquitos |
| Rancho Penasquitos Photographs | Atria_Rancho_Penasquitos8090 |  | Rancho Penasquitos |

| Copyrighted Work               | File name                      | Photo  | Location           |
|--------------------------------|--------------------------------|--|--------------------|
| Rancho Penasquitos Photographs | Atria_Rancho_Penasquitos8117   |    | Rancho Penasquitos |
| Rancho Penasquitos Photographs | Atria_Rancho_Penasquitos8152   |    | Rancho Penasquitos |
| Rancho Penasquitos Photographs | Atria_Rancho_Penasquitos8206   |    | Rancho Penasquitos |
| Rancho Penasquitos Photographs | Atria_Rancho_Penasquitos8226-2 |    | Rancho Penasquitos |
| Sterling Photographs           | hargis_180821_0424             |   | Sterling           |
| Sterling Photographs           | hargis_180821_0439             |  | Sterling           |
| Sterling Photographs           | hargis_180821_0470             |  | Sterling           |
| Sterling Photographs           | hargis_180821_0543             |  | Sterling           |
| Sterling Photographs           | hargis_180821_0579             |  | Sterling           |
| Sterling Photographs           | hargis_180821_0600             |  | Sterling           |
| Burlingame Photographs         | hargis_140509_6527             |  | Burlingame         |